



**REMARKS OF THE HONORABLE KEITH E. GOTTFRIED
GENERAL COUNSEL OF THE
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**PRESENTED AT THE
NATIONAL ASSOCIATION OF HOUSING AND REDEVELOPMENT OFFICIALS
2006 SUMMER CONFERENCE
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9:30 A.M., LOCAL TIME
HYATT REGENCY DENVER AT THE CONVENTION CENTER
DENVER, CO
[as prepared for delivery]**

Good morning.

Thank you Renée for that generous and very kind introduction.
Thank you to all of you for that very warm welcome. Thank you all
very much.

I am very pleased to be here in Denver with so many of our country's
leading housing professionals.

On behalf of HUD Secretary Alphonso Jackson, Deputy Secretary
Roy Bernardi, my fellow Assistant Secretaries and myself, I'd like to
thank the National Association of Housing and Redevelopment
Officials for organizing this conference and for the opportunity to
spend some time with you this morning.

I'd also like to take a moment to thank the leadership of NAHRO –
President Donald Cameron, the CEO of the Charleston, South
Carolina Housing Authority, Senior Vice President Renée Rooker, the
Executive Director of the Walla Walla, Washington Housing Authority,
and, of course, NAHRO's Executive Director Saul Ramirez.

Many of you know that Saul is a HUD alumni and, as such, a member
of the HUD family; he was Assistant Secretary for Community
Planning and Development from 1997-1998 and Deputy Secretary

from 1998 to 2001. I'm sure Saul agrees with me that you may leave HUD, but HUD doesn't leave you.

I'd also like to thank Bill Maher, NAHRO's General Counsel, as well as the other leaders of NAHRO who are with us today.

I would like to take a moment to recognize NAHRO for the work it has done since its establishment in 1933 when it was established as the National Association of Housing Officials (NAHO). NAHO was instrumental in the passage of the Housing Act of 1937 which was the first major federal legislation aimed at improving access to safe, decent and affordable housing for low-income Americans and really got the ball rolling on establishing housing and urban development issues as a priority for the federal government.

Since then, NAHRO has been instrumental in initiating and supporting additional legislation aimed at improving access to affordable housing as well as serving as a major educational entity through the conferences, publications and training it provides.

I'd also like to point out that NAHRO worked to create and provide initial funding for the Housing and Development Law Institute (HDLI), which is an organization that I think is truly outstanding and a great benefit to the entire affordable housing bar.

This is my first trip to Denver as General Counsel of HUD and I really do appreciate the opportunity to be with you today, though wearing a suit on a Sunday when it is 98 degrees outside is not usually my first choice on how to spend a beautiful Sunday in the summer.

I also have a new beautiful baby girl back home so I try to minimize time away from Washington, D.C. That I am here with you this morning, instead of spending the weekend in Washington, D.C. with my family, is a testament to how much we at HUD value the relationship between NAHRO and HUD.

Speaking of Washington, D.C., I understand from talking with my wife this morning that it is just as hot today there as it is here in Denver, though more humid.

For those of you who are trivia buffs, you may be interested to know, that on this day in 1790, the then young American Congress declared that a swampy, humid, muddy and mosquito-infested site on the Potomac River would be our nation's permanent capital and named it after our first president. What a choice!

Just imagine if the Congress was choosing our nation's capital today. I dare say that Denver, with its great views of the Rockies from almost any vantage point in the city, would have to be a front-runner. After all, there must be some reason why there are more Federal employees in Denver and the surrounding areas than anywhere else but Washington, D.C. It is hard to feel homesick here with so many colleagues from the Federal government nearby.

While Denver has had its ups and downs, it has always been a city of great hopes and big dreams. Since its founding by a party of prospectors in 1858, people of all ethnic backgrounds have come here looking for land, freedom, money and the hope that they would find paradise and fulfill their dreams on the high plains of the frontier. Its central position made it a very appealing city in the post-Civil War era for folks of all backgrounds.

Denver is one of our nation's most ethnically diverse cities and celebrates its diversity with a number of ethnic events, celebrations and festivals. Approximately one-third of the population is Hispanic or Latino, giving Denver one of the highest populations of Hispanics or Latinos in the United States. Many of Denver's earliest settlers were African-Americans formerly enslaved looking for a better life for their families in the post-Civil War era. The Black American West Museum in Denver located in the Five Points neighborhood was erected as a tribute to these early settlers of Denver.

In addition, former Denver First Lady and State Senator Wilma Webb led the movement to adopt Martin Luther King, Jr. Day as a state holiday, long before the Federal government did. Obviously, the movement was a huge success and now, every year, our nation pays tribute to a great American who taught us all to dream of a better country premised on equal opportunity for all.

Speaking of dreams, Denver is also a city where many Americans, including many minorities, have been able to fulfill their dream of owning their own home and becoming a member of the ownership society.

Approximately 66% of the population of Denver owns their own homes. That's a great statistic, but we should strive to continue to increase it. Even in the poorest residential neighborhoods, single-family detached housing prevails, reflecting the Western interest in "elbow room" and a spacious, relatively flat, high plains site.

Denver also boasts several very impressive, and certainly diverse, native sons and daughters, including Colorado alumnus Byron "Whizzer" White, the NFL player-turned-Supreme Court Justice, Philip Bailey, singer with the R&B group Earth, Wind, and Fire, Golda Meir, former Israeli prime minister, Douglas Fairbanks, one of the most famous silent movie stars of all time, and Hattie McDaniel, the first African-American to win an Academy Award for her performance in "Gone With The Wind."

And let's not forget, Denver lays claim to being the birthplace of the cheeseburger created by Louis Ballast in 1935 at his Denver Humpty-Dumpty drive-in restaurant. Other cities dispute that claim, and HUD will not be taking an official position on that.

I did not come to Denver alone. I'm traveling today with George Weidenfeller, HUD's long-time Deputy General, John Carson, HUD's Regional Director in Denver, and Ellen Dole, HUD's Regional Counsel in Denver. Denver is part of what we call Region VIII which covers Colorado, Montana, the Dakotas, Utah and Wyoming.

I would also like to pass on greetings from Assistant Secretary for Public and Indian Housing, Orlando Cabrera, who joined HUD not too long after me. As the former Executive Director of the Florida Housing Finance Corporation, Assistant Secretary Cabrera brings to HUD a significant amount of public housing experience. As Florida Housing's Executive Director, Assistant Secretary Cabrera spearheaded their technology modernization, improved Florida Housing's financial condition, and led its efforts to better serve low income Floridians. I believe Assistant Secretary Cabrera will do great

things for HUD, for public housing and for America. I encourage each of you to get to know him.

I'd also like to say a few words about Secretary Alphonso Jackson and Deputy Secretary Roy Bernardi. We are very fortunate to have at HUD's helm two leaders who understood public housing long before they came to HUD.

Secretary Jackson knows public housing. As many of you know, Secretary Jackson is the first HUD Secretary to ever run a public housing authority. He managed the Housing Authorities in St. Louis, Washington, D.C. and Dallas and brings a unique perspective to HUD.

As many of you may also know, Deputy Secretary Bernardi is the former Mayor of Syracuse, New York where he worked tirelessly to make Syracuse a more vibrant urban center and to draw families back into that city through home-ownership programs.

When it comes to public housing they understand the complexities that are involved and the flexibility that is required for HUD and our partners to achieve our shared mission. But most importantly, the Secretary, along with everyone else at HUD, realizes that the residents whom public housing serves are our greatest concern.

As Secretary Jackson continues to lead HUD in:

- promoting affordable housing,
- strengthening our nation's communities,
- dismantling the barriers to home ownership,
- expanding homeownership opportunities for all Americans, particularly low and moderate income families,
- meeting President Bush's goal of at least 5.5 million new minority homeowners before the end of the decade,
- ending chronic homelessness,
- vigorously enforcing fair housing, civil rights and anti-discrimination laws,
- and, of course, providing housing and other desperately-needed relief to the victims of Hurricanes Katrina, Wilma and Rita,

it is for me the honor of a lifetime to serve as HUD's General Counsel.

As many of you may be aware, the HUD Office of General Counsel is a nationwide organization of close to 400 attorneys and 300 non-attorneys with headquarters in Washington, D.C., 10 regional offices and 40 field offices around the country. It is the largest legal office in the world dedicated to providing legal advice on housing and urban development issues.

Going back to 1947, eighteen men and women have come before me and very honorably served as General Counsel at HUD and its predecessor agencies so I am aware of and respectful of this office's heritage and legacy. Previous General Counsels continued to distinguish themselves long after they left HUD.

My good friend, Judge Nelson Diaz, is one case in point. After leaving HUD, Judge Diaz went on to become City Solicitor, or Chief Legal Officer, of Philadelphia, the 5th largest city in the United States, from 1991 to 2004, and is now a Partner with the Philadelphia law firm of Blank Rome LLP.

Another great example of a HUD General Counsel continuing to distinguish himself is Frank Keating, who served as General Counsel from 1989 to 1993, and went on to become a two-term Governor of the State of Oklahoma from 1995 to 2003.

As many of you may recall, Mr. Keating was Governor of Oklahoma when the Alfred P. Murrah Federal Building in Oklahoma City was bombed, a bombing that included among its victims all the HUD employees in the Oklahoma office of HUD's Office of General Counsel. He provided the people of his state and the nation with much needed and inspiring leadership and compassion during that period.

I am extremely honored to lead HUD's Office of General Counsel as its 19th General Counsel and am very grateful to President Bush and Secretary Jackson for the trust and confidence they have placed in me.

The position of General Counsel at HUD is a wonderful opportunity and a tremendous challenge, but it is a position I believe that I have been preparing for my whole life.

I have spent the last two decades in the accounting and auditing business, the legal business and, most recently, the computer software business. Today, when folks ask me what I do for a living I tell them I am in the “hope business” because that is the “business” of HUD – helping people realize their dream of access to affordable housing and home ownership.

We are all partners in the hope business. We are all partners in ensuring that public housing becomes a place of promise, a place to nurture, a place to grow the seeds of citizenship and a place to build opportunity for a better life.

We have great jobs since we have the great privilege of knowing that we have the ability to make a difference in the lives of so many people, particularly when we help them gain access to affordable housing or when we help strengthen or reinvigorate a community.

We must ensure that every American has the chance to share in our great country’s prosperity and opportunities. When we provide access to affordable housing, housing assistance, job training and other support services to our fellow citizens who need it the most, we provide a foundation upon which they can build better lives for themselves and their families. We also provide a foundation for a stronger and more secure America.

Serving as the General Counsel of HUD has been the most rewarding position I have ever held – not rewarding financially, but truly rewarding personally.

I come from a very modest upbringing and never did I imagine growing up in Queens, New York that one day I would be nominated by the President of the United States of America to serve the American people in this position.

I feel very strongly that to those to whom much is given, much is expected and that, as a member of a compassionate society, I have a duty to give something back to the nation that has given me so much.

The opportunity to serve as General Counsel of HUD is a particularly fitting opportunity for me to give something back to our great nation, not only because of my background and experience as a lawyer and as a seasoned legal executive in the private sector, but also because of a deep personal connection that I share with HUD's mission.

In 1967, one year after the cornerstone was laid for the building that now serves as HUD's headquarters, the building known as the Robert C. Weaver Federal Building, my parents purchased their first home in Queens, New York using a modest down payment and a thirty-year, fixed-rate mortgage.

My parents separated some years later and throughout much of my childhood, my mother was a single parent raising a family on a teacher's salary. Money was often tight, but above all my mother knew the importance of keeping our home, rather than heeding advice to the contrary to move us to a smaller rental apartment to save money.

My mother, the daughter of immigrants, had grown up in the Brighton Beach section of Brooklyn, New York where she shared a crowded one bedroom apartment with her parents and three siblings, so she knew all too well that this was not the environment she wanted for her family.

Instead, she worked lots of overtime and took on extra jobs so she could afford the mortgage payments because she knew the benefits of remaining a member of the "ownership society."

She knew that by keeping her family in a home that she worked hard to own and a community that she took a stake in, she was providing the best possible atmosphere for my younger sister and me to succeed.

Like President Bush and Secretary Jackson today, my mother recognized the value and benefits of homeownership. She believed,

and continues to believe, that homeownership provides an immeasurable contribution to a family's stable living environment.

The living environment that my mother worked so hard to afford provided our family with a great deal of stability. It not only instilled pride in us but it also showed us the importance of community.

I learned first-hand the benefits of being part of a close-knit community where your neighbors feel like family and where homeownership translates into greater concern for your community and the welfare of your neighbors.

My mother's home and community continue to be sources of great pride to her. Almost forty years after purchasing her home, she remains deeply active in, and committed to, her community.

So for me the mission of HUD is a rather personal one. I have seen first-hand the benefits of homeownership. I have seen first-hand the power of community. I have seen first-hand how important it is for a family to have a safe, decent and clean place to call home. I have seen first-hand how much safer and more secure our homeland is when more people have a stake in our society.

Now that I have the opportunity to help make a difference and bring hope to millions, I plan to do everything I can to maximize the opportunity and to carry out my duties to the fullest.

So, as I said, to those whom much is given, much is expected. I want you all to expect a great deal from me over the next thirty months or 1,000 days, whichever is longer.

As General Counsel, among my top priorities are to significantly enhance regulatory transparency and compliance assistance at HUD. I also want to be a catalyst for a more frequent and meaningful two-way dialogue between HUD and the regulated community.

If you compare HUD with other agencies, such as the Department of Labor or the Securities and Exchange Commission, we can do a much better job in the areas of regulatory transparency, compliance

assistance and engaging in meaningful communications with the regulated community.

I can't begin to tell you how strongly I believe in regulatory transparency and transparency in general.

To quote Supreme Court Justice Louis Brandeis: "Sunlight is said to be the best of disinfectants; electric light is the best policeman." In my opinion, regulatory transparency, including a regulatory process with broad participation and input from the regulated community:

- Increases predictability,
- Fosters trust,
- Raises the confidence of those regulated,
- Promotes regulatory quality,
- Increases compliance,
- Reduces compliance friction,
- Supports accountability, and
- Enables the regulated entities to have sufficient clarity to take action without fear of violating the law.

We need to accept that regulatory transparency is the key to developing more effective and efficient regulations and regulations of a higher quality. Believe it or not, agencies don't always have the answer.

The people and entities that are regulated have an enormous capacity to identify, understand and express views on their obligations under the law and they should be listened to.

Increased participation by folks with different experiences and the subsequent process of compromise by competing interests is the foundation of our successful and dynamic democracy.

So what are the key elements of regulatory transparency and why are they important?

First, the proposed regulation and the process by which it is developed, drafted, adopted and implemented must be accessible and visible.

Regulated entities must have timely access to regulatory information. They should also have access to the regulatory information prior to promulgation of final regulations and, where possible, in advance of the public comment period on the proposed regulations.

What is of paramount importance is giving regulated entities ample time to analyze and digest rules put before them for comment. That also means that the agency must take public comments seriously and be held accountable to ensure that valid concerns are addressed and don't disappear into a file somewhere.

Regulated entities bring to the table real world experience in implementing regulations and we need to appreciate that experience.

Accessibility doesn't just cover the period before the regulations take effect. Regulations in effect, and any related supplementary guidance, must be readily accessible to the public and regulated entities so that they can, not only access the regulations they may be subject to, but can also analyze these regulations and suggest improvements to the agency.

Second, the proposed regulation must be intelligible. We must do our best to avoid ambiguity or confusion in our regulations. It must be easy to follow and presented logically.

It must be clear and understandable enough so that those who have to deal with it on a daily basis, and who usually aren't lawyers, don't need to become lawyers to understand it.

We need to avoid unintended discriminatory effects that can occur if the ability to understand and process the information is dependent on age and educational background.

Regulated entities bring to the table real world experience in implementing regulations we develop, draft and seek to promulgate. So, not only must the regulation be intelligible, but the application of the regulation to unique and unprecedented situations must be determinable.

Third, there must be a rationale behind the proposed regulation or change in regulation. By that I mean the agency must explain why the proposed regulation is needed and the purpose it will seek to serve. Was there a reason to change the rule in the first place? If so, what was it? And how will the new proposed rule help alleviate any existing problems?

This not only helps regulated entities understand the requirements they may be faced with, but it also allows the community and regulated entities to respond with their opinion on the necessity of the proposal and recommend alternatives.

In addition, the agency should justify the cost of the regulation by performing analyses of major regulatory proposals to determine if the benefits will exceed the costs and whether these are alternatives that can achieve the same goal with less cost.

Fourth, we must be consistent in how we apply the regulations. The regulations should be administered consistently in different parts of the country. You must get the same agency interpretation in Denver as you would get in San Francisco, New York or Chicago.

The regulations should also be consistent across the government. In other words, the public and the industry should not be confronted with confusing or contradictory rules or be forced to violate one agency's policies in order to adhere to the requirements of another agency.

Fifth, we need to increase agency accountability for the issuance of regulations and guidance. We need to ensure that procedures are in place to clearly identify who is authorized to issue guidance on a particular issue where there may be ambiguity. Agency staff should not be engaged in ad-hoc decision making which can have the effect of ad-hoc rule-making.

Procedures need to be in place to ensure that regulations and guidance are issued only by those authorized and are appropriately coordinated internally within the agency. We also need to ensure that we avoid creating unwritten rules, policies and guidance.

Sixth, we must have processes in place for active and meaningful communications and two-way dialogue with the regulated community.

What do I mean by communication and feedback? We must consult with our regulated partners – particularly folks like all of you – to seek your input and guidance on issues and proposed regulations and to share ideas on how to better achieve our respective goals.

You'd be surprised at the number of ways an agency can interact with non-agency actors to share ideas. For example: training and briefing sessions, roundtables, negotiated rulemaking, the formal comment process and period, advisory committees, informal and formal guidance, publication in the Federal Register, codification and indexes made available by major legal publications, and the electronic publication of regulations and guidance.

Speaking as someone with a background in the technology industry, I am a firm believer that the Internet is an invaluable tool for fostering communication whether in the form of on-line postings of proposed and promulgated regulations, on-line postings of guidance and interpretative letters, automatic e-mail updates, on-line discussion groups, or electronic knowledge repositories.

We also need better processes to institutionalize and publicize our guidance through *timely* and *active* disclosure. We need better processes for consultation with the regulated community of public housing authorities and the public housing bar. We need better processes to promote more predictability and reduce compliance friction.

In addition, we need better protocols for determining when our guidance should be issued in the form of a no-action letter, an interpretative letter, a staff legal bulletin or through rulemaking.

In one of my past lives, I was a securities lawyer and practiced extensively before the Securities and Exchange Commission. During that time, if I had a client that wanted to proceed with a transaction, but it was unclear whether such a transaction was in compliance with the securities law because the law was ambiguous, I had the option

as a securities lawyer of sending a request for a no-action letter to the SEC.

The no-action letter would explain to the SEC what my client was seeking to do, what the applicable law provided, what the SEC had said in previous no-action letters and why I thought the proposed transaction was in compliance with applicable law and regulations. The letter would seek the SEC's commitment not to recommend enforcement action against the client if the client proceeded with the transaction as described in the letter.

It may also be the case that, during the course of preparing such a letter, I would discover that there were so many no-action letters almost exactly on point that I felt comfortable advising my client to proceed with the transaction without the need for a no-action letter.

I ask you – why can't we have a similar process at HUD?

Seventh, we need to hold the agency responsible for helping the regulated community understand our rules and regulations. Before any one can be expected to comply with our rules and regulations, these rules and regulations have to be communicated clearly and understood.

It is not fair for the regulated community to be expected to know how to comply with every rule and regulation without any help from the people who write them, promulgate them and penalize you if you don't abide by them.

Compliance is not just your responsibility. It is also HUD's responsibility. We must help you navigate through the regulatory jungle that we have created.

To foster more of a compliance assistance culture, I am seeking to establish within the Office of General Counsel an Office of Compliance Assistance. The purpose of this office would be to:

- Assist the HUD regulated community in complying with statutes and regulations administered by HUD;
- Raise public awareness of the laws and regulations enforced by HUD;

- Ensure that Americans know where to go for help in complying with HUD laws and regulations;
- Implement externally focused education and marketing plans to promote public awareness of how to comply with HUD's laws and regulations;
- Promote new strategies for assisting the HUD regulated community;
- Oversee the development and expansion of HUD's compliance assistance resources, including technology-based tools and solutions;
- Seek to make compliance with HUD administered laws and regulations easier and less expensive; and
- Seek to ensure that the HUD regulated community is not unduly encumbered by uncertainty in how to comply with HUD administered laws and regulations.

The Office of Compliance Assistance would make use of compliance assistance tools such as:

- a dedicated compliance portal on the HUD website;
- a 24-hour help desk and call center reached by a toll-free number;
- e-laws Advisors – Interactive e-tools that provide information on HUD administered laws and regulations;
- E-mail subscriptions and updates;
- On-line discussion groups;
- Electronic and printed guides describing in plain English, and a number of foreign languages, HUD's major laws and regulations;
- Community workshops;
- Educational materials; and
- Compliance assistance partnerships with third-party, nonprofit membership organizations such as NAHRO.

HUD partners would be expected to play a vital role in HUD's compliance assistance efforts. Partners would assist HUD in communicating important educational messages to the public, while helping program participants and others comply with HUD laws and regulations.

Partners would generally be nonprofit, third-party membership organizations that would enter into a partnership agreement with HUD. Partnerships would foster activities designed to raise awareness of HUD's laws and regulations and available HUD compliance assistance tools.

Among other activities, partners would:

- Develop and distribute educational materials about HUD's compliance assistance tools;
- Place compliance assistance articles in their member publications;
- Ensure that members of the partner organizations have easy access to information about HUD's compliance assistance tools through the organization's website;
- Coordinate speaking / presenting engagements at the partner's conferences and special events; and
- Invite HUD program, regional and field offices to participate in workshops, and other compliance assistance training opportunities.

Compliance assistance is not a substitute for enforcement but we must invest as much, if not more, in compliance assistance as we do in enforcement. We must focus our enforcement resources on the small percentage of the HUD regulated community that deliberately seeks to violate our laws and regulations, not those who simply want to comply but just need help in understanding how to comply.

If we can emulate some of the "best practices" in regulatory transparency and compliance assistance that are in use at other agencies like DOL or the SEC, I believe that program participants would be more confident when engaging in their activities. They would be more creative. They would be able to spend less time and money addressing enforcement issues.

Perhaps, because of diminished compliance risk, their cost of capital may be reduced when they need to raise money. In essence, they would be able to more effectively and efficiently execute their affordable housing mission and provide more Americans with access to safe, decent and sanitary housing. Isn't that what we all want?

It should go without saying that HUD wants our partners, especially the local housing and redevelopment agencies, to take action, to be creative, to be innovative and to spend their funds to improve their communities and increase the supply, quality and access to affordable housing.

Wouldn't it be better if you could spend more of your funds on your affordable housing mission and less on struggling to interpret our laws and regulations and determining how to comply?

I understand that people may be skeptical that a federal agency would embrace such an ambitious cultural and attitudinal transformation. I also understand that these initiatives are extremely bold, but I fully expect them to be among the most important undertakings of my tenure and I hope that they will be among my many legacies at HUD.

I would like to again thank NAHRO for organizing and hosting this conference and thank all of you for taking time from your busy schedules to be here today to share ideas for how to improve the quality of, and access to, our nation's affordable housing.

Thank you again for giving me the opportunity to come here this morning and spend some time with you.

Thank you all very much for what you're doing.

Thank you for what you're doing to improve public housing and to help us make safe, decent and affordable housing accessible to more folks across this great nation.

Thank you for helping more Americans find dignity and respect in a place that they can call home.

All of you have my personal thanks, the thanks of HUD Secretary Alphonso Jackson and the thanks of the man I ultimately report to, President George W. Bush.

I say to you, our partners in the public housing community, that I look forward to working with all of you in the months and years ahead as we work together to accomplish our shared mission and as we seek to ensure that everyone has a stake in the success of America and everyone has a chance to realize the great promise of this country.

May God bless you, and may God continue to bless our great country.

Thank you all.